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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,266	11/03/2003	Josef Wiesinger	0127-085P/JAB	3687

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EXAMINER
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ROBERTS, JESSICA M

ART UNIT	PAPER NUMBER
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2609

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08/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/700,266

**Applicant(s)**

WIESINGER ET AL.

**Examiner**

Jessica Roberts

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ←
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Acknowledgment of Amendments*

The amendment filed on 07/09/2007 overcomes the following rejection(s)/objection(s):

Claim 12 and 13 have overcome the objection for minor informalities.

Claims 1,3,4, and 9-13 have overcome the 35 U.S.C 112 rejection in the previous non-final office action, which stated that the claims were indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10, and therefore claim 11, and 12 overcome the 35 U.S.C 101 rejection in the previous non-final office action, which stated that the claims were directed to non-statutory subject matter, as they pertained to an abstract idea with no clear useful, concrete and tangible result.

### *Response to Arguments*

Applicant's argument for unamended claim 6 is not persuasive. The examiner acknowledges that in the specification the applicant identifies the linking mean can be a data exchange bus, however, claim 6 is a means plus function and is read in light of the specification which recites the linking means are to be **understood to encompass any physical means, such as cables, signals or a data exchange bus**. Since the linking means as discloses in the description is to encompass cables, signals, or a data exchange bus, claim 6 still does not overcome the 35 U.S.C 101 rejection as stated in the previous non-final office action. Since the scope of claim 6 would have

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encompassed "signals", which have no physical structure, and do not themselves perform any useful, concrete and tangible result. Thus, claim 6 falls under non-statutory natural phenomena. (Interim Guidelines, Annex IV (c): Electromagnetic Signals).

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-2, 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ponsot et al., US 6,606,538 in view of Konolige et al., US 2005/0100207A1.

Re claim 1, Ponsot teaches a monitoring system (figs. 1-2) for the detection a person or object within a detection zone of an escalator (col. 3, lines 42-56) comprising

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at least one video camera (5-9) and at least one escalator and/or moving walk (1) for acquiring a plurality of images. However, Ponsot fails to teach acquiring stereoscopic images as claimed and determining the differences in rectified stereo image pair. It is noted however that the system and process for acquiring stereoscopic images is notoriously well known and used in the art for depth perception to enhance image detection as evidenced by Konolige. Konolige discloses the two images to be correlated may come either from two different cameras separated spatially that capture images at the same time ([0002], [0014], [0015], [0017], [0058], [0059], and fig. 1). Konolige discloses a disparity map calculator connected to the output of the stereo correlation means, for calculating a disparity map of the object scene ([0019]). It should be noted that disparity is the difference of two images that have been positioned or overlaid on top of one another in stereoscopic or stereovision. Further disclosed are Laplacian image pyramids are built and disparity maps are produced ([0018]). One aspect of the pyramid method is progressive compression, which the decoder inputs the compressed stream section by section, and each section improves the appearance of the image; which would also rectify the image. The examiner takes the position that rectification is just the adjustment of images to simplify stereoscopic images. Konolige also discloses the use of rectification for images that due to lighting biases that differ between the images, distortions introduced by the lenses, and image plane geometry. Compensation for geometric distortion is possible by rectifying the original images, by mapping the original image into a warped image ([0078]). Also, Konolige discloses the use of sub-pixel mapping between the rectified and original image ([0086] and [0087]).

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The examiner takes the position that in order for the method as disclosed by Konolige to compute sub-pixel mapping between the rectified image and the original image, it would necessitate the comparing and determining the differences of the rectified image.

Therefore, the combined teaching of Ponsot and Konolige as a whole would have rendered obvious to one of ordinary skill in the art at the time the invention was made to acquire stereoscopic images as claimed for the benefit of depth perception to enhance image detection as taught by Konolige.

Re claim 2, the combination of Ponsot and Konolige as a whole also teaches the video cameras are located above the escalator and/or moving walk (Ponsot, fig. 1).

Re claim 4, the combination of Ponsot and Konolige as a whole further teaches more than one pair of video cameras are arranged along the escalator (moving staircase) and/or moving walk to monitor a full length (entire detection zone which includes all of the moving staircase) of the escalator and/or moving walk (Ponsot col. 3 line 44-49 also fig. 1).

Re claim 5, the analysis and rejection for claim 1 also apply here. Specifically, Ponsot fails to further teach a processing unit for processing the stereoscopic images. However, Ponsot does teach the monitoring system comprising a processing unit for processing a plurality of images and acquiring images on a moving escalator (col. 3, lines 42-56 and fig. 1). Konolige discloses acquiring stereoscopic images (stereo vision, [0004], [0005], [0014, [0015], and fig. 1), and a signal-processing unit (fast DSP processor, [0033] and 84) for processing stereoscopic images.

Therefore, the combined teaching of Ponsot and Konolige as a whole would have rendered obvious to one of ordinary skill in the art at the time the invention was made to acquiring and signal processing stereoscopic from the plurality of images as claimed for the benefit of depth perception to enhance image detection as taught by Konolige.

Re claim 6, the combination of Ponsot and Konolige as a whole further teaches the monitoring system further comprises at least one of a means for linking (Ponsot, series connection and parallel connection col. 4 line 17-18 and fig. 2: 14-15) the video cameras with the processing unit (Ponsot, processor col. 4 line 17 and fig. 2:20), in the form of a data exchange bus (address bus and data bus), and a means for storing the stereoscopic images (Ponsot, col. 4 line 1-6, col. 4 line 21-24, and fig. 3).

Re claim 8, the combination of Ponsot and Konolige as a whole further teaches the processing unit is integrated with at least one camera (Ponsot, col. 8 line 52-56 and fig. 2).

Re claim 9, the combination of Ponsot and Konolige as a whole further teaches the monitoring system is connected electrical to a control for restarting the escalator and/or moving walk after a stop only when no obstacle and/or person is detected on the escalator and/or moving walk (Ponsot, col. 2 line 19-23, col. 3 line 56-52, and col. 9 line 3-6, i.e. switching the unavailability of failure signal of the monitoring device).

Re claims 10-11, the analysis and rejection made in claims 1-9 also apply here. The combination of Ponsot and Konolige as a whole teaches a processor-based system. Hence, a computer program product for executing the necessary steps corresponding to the system of claim 1 would have been inherent.

Re claims 12-13, which recite a corresponding method to the monitoring system of claims 1-9. Thus, the analysis and rejection made in claims 1-9 also apply here because the monitoring system in claims 1-9 would have necessarily performed the method steps in claim 12.

In further regards to claim 13, the combination of Ponsot and Konolige teaches restarting the escalator and/or moving walk automatically (Ponsot, col. 4 line 9-16; in Ponsot, the main function of the processor is to receive the images coming from the cameras, to process the images in order to determine whether or not persons or objects are present in the detection zone and as a function of the presence or absence of persons or objects in the detection zone to generate command signals for controlling the staircase, which signals are to be applied to the control device after a stop only when no obstacle and/or person is detected on the escalator and/or moving walk).

**1. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ponsot et al, US 6,606,538 in view of Konolige et al., US 2005/0100207A1 as applied to claim 1 above and further in view of Ahl et al, US 5,704,464.**

Re claim 3, the combination of Ponsot and Konolige fails to teach the monitoring system characterized in that the video cameras are located in a balustrade of the escalator and/or moving walk. Ahls discloses a passenger sensor (fig. 2:32) for a convey or includes a transmitter assembly that is positioned within a channel in the conveyor or balustrade (fig 2:22). Therefore, the combined teachings of Ponsot, Konolige and Ahls et al, as a whole would have rendered obvious to one of ordinary skill



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in the art at the time the invention was made to modify the arrangement of using a monitoring system located in the balustrade as claimed for the benefit to determine the presence of a passenger.

### ***Conclusion***

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art

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reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

### ***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Roberts whose telephone number is (571) 270-1821. The examiner can normally be reached on 7:30-5:00 EST Monday-Friday, Alt Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jessica M. Roberts/

  
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SUPERVISORY PATENT EXAMINER